

will designate a review official. You may appeal the denial to that official. In your appeal letter, you should discuss whatever reasons are given in our denial letter. The process prescribed in § 402.190 of this part will also apply to these appeals.

§ 402.190 Officials who may deny a request for records under FOIA.

Only the Director, Office of Disclosure Policy, SSA, or her or his designee is authorized to deny a written request to obtain, inspect, or copy any social security record.

§ 402.195 How a request is denied.

(a) *Oral requests.* If we cannot comply with your oral request because the Director of the Office of Disclosure Policy (or designee) has not previously made a determination to release the record you want, we will tell you that fact. If you still wish to pursue your request, you must put your request in writing.

(b) *Written requests.* If you make a written request and the information or record you requested will not be released, we will send you an official denial in writing. We will explain why the request was denied (for example, the reasons why the requested document is subject to one or more clearly described exemptions), will include the name and title or position of the person who made the decision, and what your appeal rights are.

(c) *Unproductive searches.* We make a diligent search for records to satisfy your request. Nevertheless, we may not be able always to find the records you want using the information you provided, or they may not exist. If we advise you that we have been unable to find the records despite a diligent search, this does not constitute a denial of your request.

§ 402.200 How to appeal a decision denying all or part of a request.

(a) *How to appeal.* If all or part of your written request was denied, you may request that the Commissioner of Social Security, 6401 Security Boulevard, Baltimore, MD 21235 review that determination. Your request for review:

(1) Must be in writing;

(2) Must be mailed within 30 days after you received notification that all or part of your request was denied or, if later, 30 days after you received materials in partial compliance with your request; and

(3) May include additional information or evidence to support your request.

(b) *How the review is made.* After reviewing the prior decision and after considering anything else you have submitted, the Commissioner or his or her designee will affirm or revise all or part of the prior decision. The Commissioner (or a designee) will affirm a denial only after consulting with the appropriate SSA official(s), including legal counsel. The decision must be made within 20 working days after your appeal is received. The Commissioner or a designee may extend this time limit up to 10 additional working days if one of the situations in § 402.140(a) exists, provided that, if a prior extension was used to process this request, the sum of the extensions may not exceed 10 working days. You will be notified in writing of any extension, the reason for the extension, and the date by which your appeal will be decided.

(c) *How you are notified of the Commissioner's decision.* The Commissioner or a designee will send you a written notice of the decision explaining the basis of the decision (for example, the reasons why an exemption applies) which will include the name and title or position of the person who made the decision. The notice will tell you that if any part of your request remains unsatisfied, you have the right to seek court review.

§ 402.205 U.S. District Court action.

If the Commissioner or a designee, upon review, affirms the denial of your request for records, in whole or in part, you may ask a U.S. District Court to review that denial. See 5 U.S.C. 552(a)(4)(B). If we fail to act on your request for a record or for review of a denial of such a request within the time limits in § 402.140(a) or in § 402.190(b), you may ask a U.S. District Court to treat this as if the Commissioner had denied your request.